

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

LLOYD THORNBURG, #66295

PETITIONER

VERSUS

CIVIL ACTION NO. 5:06cv172DCB-MTP

ADAMS COUNTY and BARBARA TYLER

RESPONDENTS

OPINION AND ORDER

On January 23, 2007, an order [5-1] was entered directing the petitioner to respond within 30 days and explain why this court should not dismiss this petition as being time barred by the applicable period of limitations. When the petitioner failed to respond, an order to show cause [6-1] was entered on March 20, 2007, with a warning that failure to comply could result in the dismissal of his petition. Once again, the petitioner failed to respond. Therefore, out of an abundance of caution a second order to show cause [7-1] was entered on May 1, 2007, directing the petitioner to respond within 20 days from the entry of the order. This order of May 1, 2007, further stated that this was the petitioner's final opportunity to comply with the previous orders of this Court and that failure to comply would result in the dismissal of this civil action.

According to the court records, petitioner has failed to communicate further with the court, either to inquire as to the status of his case or to attempt to comply with court orders. The petitioner's failure to comply with the orders of this court or to otherwise communicate with this court indicates his lack of interest in pursuing this claim.

This court has the authority to dismiss an action for the petitioner's failure to prosecute

under Rule 41(b) of the FEDERAL RULES OF CIVIL PROCEDURE and under its inherent authority to dismiss the action sua sponte. See Link v. Wabash Railroad, 370 U.S. 626 (1962); McCullough v. Lynaugh, 835 F.2d 1126 (5th Cir. 1988).

The Court must be able to clear its calendars of cases that remain dormant because of the inaction or dilatoriness of the parties seeking relief, so as to achieve the orderly and expeditious disposition of cases. Such a sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the court. Link, supra, 370 U.S. at 630.

Since the respondents have not been called upon to respond to the petition, and have never appeared in this action, and since the court has never considered the merits of the petition , the court's order of dismissal should provide that dismissal is without prejudice. Shaw v. Estelle, 542 F.2d 954 (5th Cir. 1976).

THIS, the 20<sup>th</sup> day of June, 2007.

s/ David Bramlette  
UNITED STATES DISTRICT JUDGE